

Minutes  
**Workers' Compensation Study Project**

Status Meeting, December 4, 2006

1:30-3:30 pm, Conference Room A/B

Facilitator: Lt. Governor John Bohlinger

**Project team present:** Lt. Governor John Bohlinger, Jerry Keck, Anne Wolfinger, Diana Ferriter, Dave Elenbaas, Tyler Turner, Keith Messmer, Jeanne Johns, Debbie Blossom, Connie Ferriter, Wade Wilkison, Mari Kindberg, Chris Catlett, Sharon Peterson, Erin Austin

**Others present:** Doug Buman, Laborers' International Union of North America; Don Judge, Montana Injured Workers Resource Council; Dan Lee, AFL-CIO; Susan Peck, Bob Worthington, MMIA; Scott Rogers, Western States Insurance; Greg Jackson, Emelia McEwen, Keith Stapley, Patti Grosfield, MACO; Brad Eldredge, Department of Labor and Industry; Ken Carpenter, Evan Karp, Montana Health Systems; Peter Strauss, Dan Gengler, Nancy Butler, Montana State Fund; Mike Taylor, NCCI; Jon Bennion, MT Chamber of Commerce; Spook Stang, Montana Motor Carriers Association; Chuck Paske, WorkWright; Tim Fitzpatrick, Georgeanne Paul, Crawford and Company; Byron Roberts, Sean Thatcher, MBIA; Nancy Boldt, Center for Occupational Health; Pat Murdo, Legislative Services; Kris Wilkinson, Legislative Fiscal Division; Gary Lusin, physical therapist; Shawn Bubb, Montana School Boards Association; Norm Newhall, Richard Martin, Fair Claim; John Gottbreht, Putnam and Associates; Joe Nevin, Department of Labor and Industry; Riley Johnson, NFIB; Bill Dahlgren, Sun Mountain Sports; Larry Jones, Liberty Northwest; Jim Dobbins, Town Pump; Aidan Myhre, Employers Inc.; Jason Todhunter, Montana Logging Association; Connie Welsh, Lance Zanto, Montana Department of Administration; Brian Coplin, HELP; Al Smith, Montana Trial Lawyers Association

**Welcoming & Opening Remarks**

Lt. Governor John Bohlinger welcomed everyone to the meeting and expressed his appreciation for the hard work of the Project Team.

**Introductions**

Anne Wolfinger welcomed everyone and had the Project Team members introduce themselves. She had everyone else introduce themselves and whom they represented. She stated that this would be the last Status meeting as Phase II of the project would now begin with the formation of the Labor- Management Advisory Council on Workers' Compensation.

**Update: Labor-Management Advisory Council on Workers' Compensation**

Jerry Keck stated that an Advisory Council has been created to recommend improvements to the Montana workers' compensation system using the information that

has been developed and gathered by the Project Team. The first meeting of this group is scheduled for December 14<sup>th</sup> from 10:00 a.m. to 2:00 p.m.

The Advisory Council has been established for a two-year term through an agency order from Keith Kelly, Commissioner of the Department of Labor and Industry. At the expiration of the two-year term, it is expected that the Council will be re-authorized so work through the 2009 Legislative session. Everyone is welcome to attend the Council meetings and public input will be taken at each meeting.

Jerry introduced the members of the Advisory Council who were present: Lt. Governor John Bohlinger, Doug Buman, Dan Lee, Don Judge, Bill Dahlgren, Riley Johnson, Connie Welsh, and Bob Worthington. Additional members of the Council are Jacquie Helt, Jason Miller, and Annette Hoffman.

Jerry explained that there will also be a subgroup formed to look at the medical fee schedules and make recommendations to the Council. That group is expected to begin meeting in March after the receipt of the final report from Ingenix.

### **Premium Rankings**

Tyler Turner, economist with the Department of Labor & Industry's Research & Analysis Bureau, presented his loss cost comparison titled *The Montana Workers' Compensation Loss Cost Study*. **Refer to handouts and website for the power point presentation and audio file.**

After his presentation Tyler opened the floor for questions.

Dick Martin asked if Tyler was using loss costs and premiums synonymously. Tyler explained that his study examined loss costs while the Oregon study examined premiums and the two terms are not the same.

Dick Martin then asked for an explanation of what is included in loss costs.

Dan Gengler from Montana State Fund explained that loss costs are the portion of the rate that pays the benefits and claim's administration. It does not include the overhead expenses that cannot be directly attributable to a claim.

John Gottbreht said that this analysis examines loss cost in relation to payroll. He asked if the size of the payroll made any difference in the analysis.

Tyler explained that the size of the payroll does have an impact, but it is standardized by the methodology. Oregon's study did not use each state's own class codes.

Bob Worthington questioned the formula on one slide that uses total premium/payroll, not loss costs.

Tyler stated that the wording was wrong there and it really was loss costs that were being used.

Norm Newhall asked if a cost can be allocated specifically to the claim, is it included in the loss cost?

Peter Strauss from Montana State Fund responded “yes” and clarified that it doesn’t include general overhead expenses that an insurer has that can’t be attributed to an individual claim.

Norm Newhall then asked if anyone has studied the overhead costs.

Diana Ferriter responded that the Project Team is looking at that and she would report later in the meeting.

Dan Gengler said that the State Fund has studied this issue as well and their results correlate with Tyler’s. He stated that if every other state looked like us the rates would still be high and it doesn’t matter what industry we have, the rates are still high. Even if you remove the administration and overhead costs the rates are still high in comparison to other states.

### **Injury Prevention I: The Impact of Drug Use on Workplace Safety**

Chris Catlett, Chief of the Safety and Health Bureau, Department of Labor and Industry gave a presentation on the amount of illicit drug use and alcohol abuse by workers and the effect that has on workplace safety. **Refer to handouts and website for the power point presentation and audio file.**

Following his presentation Chris asked if there were any questions.

Dick Martin asked if Montana is 43% higher than the national average in frequency of injuries, what rank are we?

Chris responded he has not looked at that but will follow up.

### **Return-to-Work Study**

Diana Ferriter gave some background regarding the Return-to-Work Study. This study was introduced at the July status meeting and is an attempt at an outcome study of what happens to a worker after an injury. It is the part of the public policy in the Workers’ Compensation Act that a worker is returned to work as soon as possible following an injury. This study analyzes what wages they return to, and how quickly they are able to return. She then introduced Erin Austin who is a research analyst in the Workers’ Compensation Claims Assistance Bureau to talk about the Return to Work Study. **Refer to handouts and website for the power point presentation.**

At the conclusion of the presentation Erin asked for questions.

Joe Nevin asked if seasonal work might help explain the 10<sup>th</sup> quarter figures that show a reduction in earnings.

Erin responded that using the long-term trend will weight out some of that seasonal work, but agreed that this needs to be analyzed.

Dick Martin questioned if wage loss that goes beyond 350 weeks should be studied.

Erin agreed that this study should be carried out beyond 350 weeks to validate that the long-term wage loss continues.

Lance Zanto asked if the vocational rehabilitation benefit payments used in the study include payments to the rehabilitation providers.

Erin responded that only the payments to the injured worker were included.

Gary Lusin asked if this information will tie in with the information that Tyler collected. Erin replied that it would not, that this study was looking only at outcomes.

John Gottbreht questioned whether the number of days to return to work related only to the time of injury employer or all employment.

Erin answered that any employment that was reported to Unemployment Insurance was included.

Peter Strauss asked if any comparison was done with other states.

Erin responded that he hasn't. There is a RAND study that has looked at this issue in New Mexico. Peter said that WCRI may have looked at this as well.

Pat Murdo asked other than the differences already identified, what prevents ERD from getting the data needed.

Diana Ferriter responded that only a certain number of mandatory data fields on our forms. Unless we mandate the others, we will not have all of the information needed.

### **Information Updates**

#### **WCRI Administrative Inventory**

Jerry explained that Duncan Ballantyne has completed a draft inventory and stakeholders who were interviewed should have received his draft report. Jerry has asked Duncan for a preliminary final draft that can be shared with the Council. This will give the Council a good idea of what we need to look at. Frequency and duration are definitely two of the major cost drivers. Duncan will be the first presenter at the educational conference on January 10-11, 2007, and will discuss the final report.

#### **Medical Fee Schedule Study**

Keith Messmer reported that Ingenix is finishing up their analysis work on the non-hospital fee schedule conversion from the Relative Value for Physicians to a Resource Based Relative Value System. Ingenix has provided the Department with a single-conversion and a multi-conversion factor model. Both of these models would result in a cost neutral conversion, but the single-conversion factor model utilizes the equity inherent in a relative value methodology. Once Ingenix completes the non-hospital report they will start work on the hospital analysis that includes a conversion from the current discount factor methodology to a Diagnostic Related Group system. The Ingenix reports will be shared with the Advisory Council and a sub-group will be established to give the Department input on the fee schedule conversion.

#### **Workers' Compensation Education Conference**

Jerry Keck reported that the conference is scheduled for January 10<sup>th</sup> and 11<sup>th</sup> and will focus on state and national issues. Presenters on the agenda include Dr. David Dietz, the

national medical director for Liberty Mutual, who will discuss national trends in workers' compensation, Dr. Doug Benner from Kaiser Permanente who will present the provider's viewpoint, Dr. Alan Colledge who will discuss the perspective of a state agency, and Dr. John Burton who is a pioneer in the study of the adequacy of benefit payments. Dr. Burton chaired the 1972 Federal Commission on Workers' Compensation that looked at the adequacy of benefit payments across state programs.

Dave Elenbaas reminded the group that the cost of the conference is only \$35 and includes lunch both days and a reception. An \$85 room rate has been negotiated for the conference which will be held at the Helena Great Northern Hotel.

### **High Level Expense Analysis**

Diana Ferriter reported that the Project Team is analyzing how the insurer expenses in Montana compare with other states. The results of that research will be shared with the Advisory Council when it is completed.

### **Next Steps**

Anne Wolfinger reminded everyone that the first meeting of the Labor-Management Advisory Council will be December 14<sup>th</sup> from 10:00 a.m. to 2:00 p.m. in Employment Relations Division 2<sup>nd</sup> floor conference room.

She also reported that the speakers today had been recorded and the audio file will be placed on the web site with the presentation handouts.